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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **R.F.A. No. 1187 of 1987**
Date of decision: 17.9.2007

Asa Devi and others **...Appellants**

Versus

State of Haryana **...Respondent**

2. **R.F.A. No. 1142 of 1987**

Kishan and others **...Appellants**

Versus

State of Haryana **...Respondent**

3. **R.F.A. No. 1186 of 1987**

Rasali Devi and others **...Appellants**

Versus

State of Haryana **...Respondent**

4. **R.F.A. No. 1188 of 1987**

Shanti Devi and others **...Appellants**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. M.L.Sharma, Advocate for the appellants
in R.F.A. No. 1187 of 1987.

None for the appellants in
R.F.As. No. 1142, 1186 and 1188 of 1987.

Mr. Deepak Jindal, Assistant Advocate General, Haryana for

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for the respondent.

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RAJESH BINDAL, J.

The claimants are in appeal against the award of the Additional District Judge, Ambala where in a reference under Section 18 of the Land Acquisition Act, 1894 (for short "the Act"), some enhancement in compensation was awarded. Prayer is for further enhancement.

Briefly the facts are that an area measuring 1.23 acres of land situated in village Kanguwal, Had Bast No. 146, Tehsil Kalka, District Ambala, was acquired by the Haryana Government, Public Works Department for public purpose, namely, for the construction of Kalka Bye-Pass with links. Notification under Section 4 of the Act for the purpose was issued on June 30, 1980 and published in Haryana Govt. Gazette on July 7, 1981. This was followed by a notification under Section 6 of the Act on June 1, 1982. Award under Section 11 of the Act was pronounced on July 13, 1984. Rates of compensation were determined as under:-

1. Niyai & Banjar Rs. 9,600/- per acre.
2. Gair Mumkin Johar Rs. 2,400/- per acre.

Besides that other statutory benefits were also granted.

Dissatisfied with the award of the Land Acquisition Collector, the land owners/claimants/appellants filed objections under Section 18 of the Act, which were decided by the learned Additional District Judge, Ambala by passing the impugned award. Learned Additional District Judge, Ambala on consideration of the evidence brought by the parties on record determined the compensation in the following terms

1. Niyai & Banjar land Rs. 14,500/- per acre.
2. Gair Mumkin Johar Rs. 5,000/- per acre.

Still dissatisfied, the claimants/land owners are before this Court in appeal.

Learned counsel for the appellants submitted that the evidence in the form of sale deeds brought on record by them depicting sale of land

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in the village has not been properly appreciated by the learned Additional District Judge and resultantly the compensation has not been assessed to the extent it should have been. The appellants produced following sale deeds for re-assessment of the compensation before the learned Additional District Judge, Ambala:-

Sr. No.	***Exhibit***	***Document***	***Area***	***Sale consideration***	***Date of sale***	***Average rate per accre***
1	Ex. A5	Sale deed	0-5B	6,000/-	18.5.79	1,15,200/-
2	Ex. A6	-do-	0-10B	13,000/-	26.6.81	1,24,800/-
3	Ex. A7	-do-	0-10B	20,000/-	10.7.81	96,000/-
4	Ex. A8	-do-	1B-10B	24,000/-	21.8.81	76,800/-
5	Ex. A9	-do-	0-12B	15,000/-	1.10.81	1,20,000/-
6	Ex. A10	-do-	0-8B	7,200/-	10.2.82	86,400/-
7	Ex. A11	-do-	0-5B	4,500/-	10.2.82	86,400/-
8	Ex. A12	-do-	2B-10B	32,000/-	18.2.82	86,400/-

He further submitted that even if the sale instances relied upon by the claimants were of a small pieces of land, compensation on that basis could very well be assessed for the reason even the acquired land is also not a very big chunk of land and further reasonable cut can be applied therein.

On the other hand, learned counsel for the respondents submitted that sale instance (Ex. A-5) referred to by the claimants/land owners/appellants, cannot be relied upon simply for the reason that it was only 5 Biswas (250 sq. yards) of the land. Moreover, the location of the area involved in sale deeds is not shown in any site plan. Still further it is submitted that the claimants having come to know about the acquisition of the land in the area for laying the road had got the sale deed registered just to show the exhorbitant price of the land which otherwise is not there if

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considered in the light of the material provided by the Collector. He further submitted that the solitary sale deed of a small piece of land cannot possibly be relied upon even after imposing the cut as the same has not shown the trend of price in the area.

I have heard learned counsel for the parties and perused the material on record.

Though the claimants/land owners have produced on record various sales deeds Ex. A-5 to Ex. A-12 to prove that the value of the acquired land was much more than what was awarded by the Land Acquisition Collector. However, in my opinion, none of the sale deeds could be relied upon to award the compensation to the appellants for the simple reason that sale deeds Ex. A-6 to Ex. A-12 are much after the issue of notification under Section 4 of the Act i.e. on June 30, 1980 and further the sale deeds Ex.A-6 to Ex. A-12 are not only of small pieces of land but by the same vendor. Accordingly, it is only one sale deed dated May 18, 1979 (Ex. A-5) which would be relevant as all other sale deeds are after the notification under Section 4 of the Act was issued and accordingly not relevant. Even the Ex. A-5 has also to be simply noticed and discarded for two reasons. Firstly that the area involved therein is merely 5 Biswas (250 sq. yards). On the other hand, respondent relied upon following instances of sale in the vicinity of the acquired land though in the revenue estate of village Bitna:-

Sr. No.	***Exhibit***	***Area***	***Sale consideration***	***Date of sale***	***Average rate per accre***
1	Ex. R1	8B-11B	6,500/-	21.10.78	3,649.12 P
2	Ex. R2	8B-12B	13,500/-	23.7.79	7,255,79 P
3	Ex. R 3	10B-0B	12,000/-	24.12.80	5,960.00

After considering the material on record and also the topography of the area in question, it was found that both village Kanguwal, where the land in question was acquired, and village Bitna are

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close to each other and it is not possible that there would be variations of lacs in the valuation of land. Infact the claimants also knew this fact and it is for this reason that claim made by them was merely Rs. 30,000/- to Rs. 35,000/- per acre as against the sale instances produced by them on record showing the value of the land as Rs. 1,15,200/- per acre. It has further come on record that the land in question was earlier not connected by a metalled road and it was only though a Katcha passage the appellants used to approach the land. Still taking judicial notice of the fact that there may be some appreciation in the prices of the property, amount given in the award by the Land Acquisition Collector was enhanced by the learned Additional District Judge.

Secondly most important aspect being that admittedly the claimants had come to know about the acquisition of land much prior to even issue of notification under Section 4 of the Act i.e. on June 30, 1980 as admittedly the possession of the land was taken by the respondent-State much prior thereto. It was for that reason the land owners had claimed interest from the date, the respondents had taken actual physical possession of the land. While deciding issue no.2, it is noticed that admittedly the work on the acquired land commenced in July, 1979. Start of actual development work on the land regarding cutting of earth and falling of trees etc. on the land in July, 1979 means that survey thereof must have been conducted much prior thereto and for that reason the claimants were even granted the interest by fixing the tentative date of July 14, 1979 as against July 14, 1981 for grant of interest by the Land Acquisition Collector as it was found that possession of the land was taken by the respondents on that date. Once, this admitted fact had come on record even the sale deed Ex. A-5 dated May 18, 1979 is also to be discarded as the same was merely a measure to jack up the prices to claim exhorbitant compensation for the acquisition of land which infact was not the reality.

For the reasons mentioned above, I do not find any merit in the present appeals, the same are accordingly, dismissed.

September 17, 2007 **(Rajesh Bindal)**
Pka **Judge**

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